

## Merit Systems Protection Board

## § 1201.113

### FINAL DECISIONS

#### § 1201.111 Initial decision by judge.

(a) The judge will prepare an initial decision after the record closes, and will serve that decision on the Clerk of the Board, on the Director of the Office of Personnel Management, and on all parties to the appeal, including named parties, permissive intervenors, and intervenors of right.

(b) Each initial decision will contain:

(1) Findings of fact and conclusions of law upon all the material issues of fact and law presented on the record;

(2) The reasons or bases for those findings and conclusions;

(3) An order making final disposition of the case, including appropriate relief;

(4) A statement, if the appellant is the prevailing party, as to whether interim relief is provided effective upon the date of the decision, pending the outcome of any petition for review filed by another party under subpart C of this part;

(5) The date upon which the decision will become final (a date that, for purposes of this section, is 35 days after issuance); and

(6) A statement of any further process available, including, as appropriate, a petition for review under §1201.114 of this part, a petition for enforcement under §1201.182, a motion for attorney fees under §1201.203, a motion to initiate an addendum proceeding for consequential damages or compensatory damages under §1201.204, and a petition for judicial review.

(c) *Interim relief.* (1) Under 5 U.S.C. 7701(b)(2), if the appellant is the prevailing party, the initial decision will provide appropriate interim relief to the appellant effective upon the date of the initial decision and remaining in effect until the date of the final order of the Board on any petition for review, unless the judge determines that the granting of interim relief is not appropriate. The agency may decline to return the appellant to his or her place of employment if it determines that the return or presence of the appellant will be unduly disruptive to the work environment. However, pay and benefits must be provided.

(2) An initial decision that orders interim relief shall include a section which will provide the appellant specific notice that the relief ordered in the decision must be provided by the agency effective as of the date of the decision if a party files a petition for review. If the relief ordered in the initial decision requires the agency to effect an appointment, the notice required by this section will so state, will specify the title and grade of the appointment, and will specifically advise the appellant of his right to receive pay and benefits while any petition for review is pending, even if the agency determines that the appellant's return to or presence in the workplace would be unduly disruptive.

[54 FR 53504, Dec. 29, 1989, as amended at 62 FR 17045, Apr. 9, 1997; 63 FR 41179, Aug. 3, 1998; 64 FR 27900, May 24, 1999]

#### § 1201.112 Jurisdiction of judge.

(a) After issuing the initial decision, the judge will retain jurisdiction over a case only to the extent necessary to:

(1) Correct the transcript, when one is obtained;

(2) Rule on motions for exception to the requirement that a party seeking a transcript must pay for it;

(3) Rule on a request by the appellant for attorney fees, consequential damages, or compensatory damages under subpart H of this part;

(4) Process any petition for enforcement filed under subpart F of this part;

(5) Vacate an initial decision before that decision becomes final under §1201.113 in order to accept a settlement agreement into the record.

(b) Nothing in this section affects the time limits prescribed in §1201.113 regarding the finality of an initial decision or the time allowed for filing a petition for review.

[59 FR 22125, Apr. 29, 1994, as amended at 62 FR 17045, Apr. 9, 1997]

#### § 1201.113 Finality of decision.

The initial decision of the judge will become final 35 days after issuance. Initial decisions are not precedential.

(a) *Exceptions.* The initial decision will not become final if any party files a petition for review within the time limit for filing specified in §1201.114 of